

**UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT**

LIFESOURCE,)	
)	
Petitioner,)	
)	
v.)	No. 15-1178
NATIONAL LABOR RELATIONS BOARD,)	
)	
Respondent.)	

NATIONAL LABOR RELATIONS BOARD,)	
)	
Petitioner,)	
)	No. 15-1201
v.)	
LIFESOURCE,)	
)	
Respondent.)	

STATEMENT OF ISSUES TO BE RAISED

A. Whether the National Labor Relations Board (“Board” or “NLRB”) erred in finding that LifeSource violated Sections 8(a)(5) and 8(a)(1) of the National Labor Relations Act (“NLRA” or “Act”) by refusing to bargain with the Union because there can be no such violation when the underlying Certification of Representative issued by the Board is invalid?

B. Whether the NLRB’s Decision and Certification of Representative must be subjected to closer scrutiny under the NLRA because of the narrow margin of the election in which a swing by a mere one vote in favor of the Union would change the outcome of the voting?

C. Whether the underlying Certification of Representative is invalid and deprives employees of their NLRA Section 7 rights because of:

1. the Board Agent’s failure to maintain the laboratory conditions during an election as required by Board precedent by permitting the election Observers to leave

the polling area without securing or taping the ballot box, conduct which is inconsistent with established Board procedures under the NLRA; or,

2. the Board Agent's failure to maintain the NLRB's required laboratory conditions during the election by allowing voters to view the Excelsior list to see who voted; or,

3. the Board Agent's failure to maintain the required laboratory conditions during an NLRB election by leaving the polling area herself without securing the ballots or without taking steps to protect the integrity of the ballot box during her absence in violation of normal Board election protocol under the NLRA; or,

4. the combined effect that the electoral irregularities in C(1)-(3), *supra*, had on the NLRB required laboratory conditions during the election and on the integrity of the election, the result of which would have changed by the swing of a mere one "yes" vote.

D. Whether the underlying Certification of Representative is invalid and deprives the employees of their NLRA Section 7 rights where the Board Decision and Certification merely adopted the Regional Director's erroneous Report on Objections which Report speculatively concluded that the grave electoral irregularities cited in C(1)-(3), *supra*, had no effect upon an election when the Regional Director improperly denied LifeSource and the voting employees administrative due process by refusing the benefit of a hearing, or even the use of compulsory process such as a subpoena, in order to challenge the conclusory, *ex parte* and speculative conclusions prior to the issuance of the Report?

E. Whether the employees the Union is attempting to organize who were involved in the election resulting in the erroneous underlying Certification of Representative are, at a minimum, entitled to a new election:

1. to express their intent concerning representation free of the irregularities that tainted the election process in furtherance of their rights under Section 7 of the NLRA; or,

2. because of the passage of time, particularly under the circumstances and irregularities involved in this case and the effects of the turmoil involving the NLRB which occasioned unconscionable delay, together with the normal turnover of employees affected by the Board's Decision during that delay.

Respectfully submitted,

/s/ Ronald J. Andrykovitch

Ronald J. Andrykovitch

Pa. ID No. 42052

randrykovitch@cohenlaw.com

Carsen N. Ruperto

Pa. ID No. 311547

cruperto@cohenlaw.com

COHEN & GRIGSBY, P.C.

625 Liberty Avenue

Pittsburgh, PA 15222-3152

Telephone 412.297.4900

Facsimile 412.209.0672

Counsel for LifeSource

Dated: July 24, 2015

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Statement of Issues to be Raised was filed electronically on July 24, 2015. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Ronald J. Andrykovitch